STATE OF MICHIGAN

COURT OF APPEALS

RJMC CORP, d/b/a BARNSTORMER, Plaintiff/Counter-Defendant-Appellant,	UNPUBLISHED June 26, 2014
v	No. 313020 Livingston Circuit Court
GREEN OAK CHARTER TOWNSHIP, Defendant/Counter-Plaintiff-Appellee.	LC No. 11-026087-CK

RJMC CORP, d/b/a BARNSTORMER, Plaintiff/Counter-Defendant-Appellee,	
v	No. 313483 Livingston Circuit Court
GREEN OAK CHARTER TOWNSHIP, Defendant/Counter-Plaintiff-Appellant.	LC No. 11-026087-CK

Before: BORRELLO, P.J., and SERVITTO and BECKERING, JJ.

PER CURIAM.

In these consolidated appeals, plaintiff/counter-defendant, RJMC Corp, d/b/a Barnstormer ("plaintiff"), appeals as of right in Docket No. 313020 the circuit court's grant of summary disposition to defendant/counter-plaintiff, Green Oak Charter Township ("defendant"), on plaintiff's complaint and defendant's counter-complaint. In Docket No. 313483, defendant appeals as of right the circuit court's order denying its request for attorney fees. In Docket No. 313020, we affirm. In Docket No. 313483, we affirm in part, vacate in part, and remand.

I. PERTINENT FACTS AND PROCEDURAL HISTORY

At issue in this case is a building known as the Barnstormer, which plaintiff operated as a bar, restaurant, banquet center, and nightclub from 1989 until approximately February 2012. The Barnstormer facility was originally a barn that was renovated in 1982. At all times pertinent to this litigation, Robert C. Cortis was the resident agent for plaintiff and was responsible for managing the Barnstormer. Between 1989 and 2002, plaintiff completed approximately 15 renovations, modifications, and additions on the building. At the time this litigation was filed, the Barnstormer consisted of four stories and over 25,000 square feet of building space. From 2002 until February 2010, the Green Oak Charter Township Fire Department approved occupancy limits of over 2,000 for the Barnstormer.

Defendant produced evidence, and plaintiff has not refuted the same, that approximately 30 percent of the additions that were added to the Barnstormer since 1989 were either constructed without permits or without final approval from township officials. In addition, beginning in approximately 2006, Tim Kedzierski, the Green Oak Township fire inspector, began to give Cortis notice of a number of fire and construction code violations present in the Barnstormer. Defendant did not take action on any of the code violations until approximately April 2010.[1] In April 2010, township officials contacted the State Fire Marshall and expressed concerns about the Barnstormer. On April 29, 2010, Kedzierski and Mick Dingman, a State Fire Marshall, inspected the premises and found "numerous code violations," many of which posed serious threats to the public health, safety, and welfare. Those violations included, but were not limited to:

> inadequate means of egress from the building in the event of an emergency; lack of required egress lighting; lack of hand rails on stairways; improper construction of stairways with winders; lack of sufficient exit door width; lack of fire rated walls and egress enclosure areas; obstructed access outside the building; an inoperable fire alarm system; failure to install a fire suppression system in compliance with applicable code; use of extension cords and adapters as a substitute for permanent wiring; failure to display fire safety and evacuation plans; an obstruction of access to public means of exiting the building, among others.

Kedzierski and Dingman filed a report after the incident and informed Cortis that the issues needed to be fixed.

In the following months, township officials performed follow-up inspections and found that most of the code violations noted in April 2010 still existed. After one such inspection, three of the individuals who inspected the Barnstormer remarked that it was "one of the most 'dangerous' buildings they [had] observed and that immediate action [was] required." During the months between April 2010 and June 2011, defendant met with Cortis and his attorney

[1] The record reveals that before April of 2010, there was tension between the township building department and fire department with regard to the code violations involving the Barnstormer.

approximately 40-50 times and informed them about what needed to be done in order to fix the conditions. In January of 2011, despite approving the Barnstormer for a maximum occupancy of over 2,000 approximately 11 months earlier, William Steele, the Green Oak Charter Township fire chief, sent Cortis a letter in which he ordered the upper floors of the Barnstormer closed and established a 175-person occupancy limit for the first floor. The letter provided, in pertinent part:

> . . . it cannot be overstated. Your building poses an immediate and serious life safety danger to everyone who enters it, and, if you are unable or unwilling to correct this forthwith, the Township will continue to take all actions necessary to protect the public from the dangers presented by your failure to remedy this situation.

After plaintiff submitted plans that did not address the identified safety issues, and after defendant learned that plaintiff hosted an event in violation of the 175-person limit imposed on the first floor of the Barnstormer, defendant served Cortis with notice of a dangerous building hearing pursuant to MCL 125.540 on June 6, 2011. The dangerous building hearing was scheduled for July of 2011. The notice reiterated many of the code and safety violations, and advised plaintiff to retain an architect to redesign the entire building in order to bring the building into compliance with applicable codes.

On June 13, 2011, approximately one week after Cortis was served with notice of the upcoming dangerous building hearing, plaintiff filed a four-count complaint against defendant. Plaintiff noted that as recently as February 2010, defendant repeatedly approved occupancy limits in the Barnstormer for over 2,000 people. Plaintiff alleged that the fire department's decision to limit occupancy to 175 people in January 2011 forced it to cancel scores of events and caused plaintiff to lose "tens of thousands of dollars in business." Plaintiff alleged that defendant was attempting to intentionally shut down the Barnstormer and questioned defendant's motives for alleging the safety and code violations. Among other forms of relief, plaintiff sought an injunction to keep the Barnstormer open at the occupancy levels that had been approved from 2002 to February of 2010. Plaintiff also sought a preliminary injunction for the same.

Defendant responded with an answer, counter-complaint, and request for a preliminary injunction to shut down the Barnstormer. Defendant sought to abate the numerous safety issues present in the Barnstormer. According to defendant's representations, approximately 35 percent of the Barnstormer was not in compliance with the State Construction Code, MCL 125.1501 *et seq.* Defendant alleged that the Barnstormer constituted a nuisance per se, and sought to abate the nuisance and to temporarily and permanently enjoin plaintiff from using the property.

Following an evidentiary hearing, the circuit court denied plaintiff's request for a preliminary injunction and granted defendant's request in part. Rather than enjoining plaintiff from using the Barnstormer entirely, the circuit court permitted plaintiff to use the first floor of the Barnstormer, so long as occupancy was limited to 175 guests or fewer.

On July 28, 2011, the parties entered into a stipulated order declaring that "portions of the Barnstormer facility . . . are in a condition that constitute a Dangerous Building" under the Green Oak Charter Township Code, Section 6-61(1), (3), (5), and (6), as well as under MCL

125.539(a), (c), (e), and (f). The stipulated order provided that the dangerous building hearing would remain open for 60 days in order to allow plaintiff to submit a complete set of signed and sealed architectural plans addressing an identified set of safety issues.

In December 2011, following a dangerous building hearing at which plaintiff and defendant were given the opportunity to participate and present evidence, the dangerous building hearing officer found that plaintiff submitted plans to defendant for remedying the safety conditions in the Barnstormer, but the plans contained "numerous deficiencies," and failed to contain sufficient detail for resolving the safety issues. The hearing officer found that the plans plaintiff submitted were "not complete as defined under the Stipulated Order." Because plaintiff neither submitted appropriate plans to rectify the safety and code violations nor secured adequate funding to complete necessary repairs, the hearing officer ordered plaintiff to, among others: (1) seal off the second story doors to the building; (2) replace heat detectors with smoke detectors; (3) install a horn strobe system on the exterior of the building; (4) seal and cap the plumbing on the second floor in order to prevent the escape or release of methane gas; (5) immediately remove and store offsite all combustible materials stored on the second, third, and fourth floors of the building: (6) submit a detailed financial agreement that would include the payoff structure of the building as well as funding for the requisite repairs; (7) submit requisite architectural plans for fixing the unsafe conditions; (8) continue to limit occupancy to 175 persons on the first floor only.

After plaintiff failed to comply with the requirements of the December 2011 order, the hearing officer conducted another review and entered another order. In the order, the hearing officer found, based on evidence presented, that plaintiff submitted plans in an attempt to comply with the December 2011 order, but the plans "fell short of addressing all of the dangerous conditions originally cited." Because of plaintiff's failure to comply or rectify the conditions, the hearing officer requested that the "Township Board" schedule a hearing "to cause necessary action [to] be taken to enforce [the December 2011] order and protect the public." On March 29, 2012, the "Township Board" met and determined that portions of the Barnstormer constituted a dangerous building under state law. The board further concluded that the building and adjacent tent structure "shall be closed immediately." The order also ordered the demolition of certain areas identified in an attached report, and that the entire building had to remain closed until the dangerous conditions were remedied. In the event plaintiff failed to comply with the order, the Township Board could, in its discretion, demolish the entire building, or could contract for the repair of the identified safety conditions. The order required plaintiff to pay the cost of any demolition or repairs.

On April 10, 2012, defendant moved for summary disposition on the remaining claims[2] in plaintiff's complaint and defendant's counter-complaint. The motion also requested that the circuit court affirm the March 29, 2012 order of the Township Board. Defendant argued that because it was undisputed, given plaintiff's stipulation, that portions of the Barnstormer

[2] On January 26, 2012, the parties entered into a stipulated order dismissing portions of plaintiff's complaint with prejudice.

constituted a dangerous building, and that plaintiff failed to rectify any of the dangerous conditions despite notice and numerous opportunities to fix them, it was entitled to summary disposition on all remaining claims.

Following a hearing, the circuit court, on October 4, 2012, entered a written order in which it found that defendant was entitled to summary disposition on plaintiff's remaining claims and on its claims in the counter-complaint. The circuit court also affirmed the Township Board's March 29, 2012 order.[3] The circuit court's order specified that "all occupancy" of the Barnstormer was "hereby terminated and enjoined" and that "the dangerous portions of the [p]roperty and building are nuisances per se and shall be demolished."

Following an October 18, 2012 hearing, the circuit court denied defendant's motion for sanctions pursuant to MCR 2.114 and MCL 600.2591, as well as defendant's request for attorney fees pursuant to MCL 125.541. The circuit court granted defendant $27,078.73 in costs.

II. DOCKET NO. 313020

Plaintiff argues that the circuit court erred when it granted summary disposition to defendant and ordered that the entire Barnstormer be closed because it contends that there was no evidence indicating that either the first floor of the building, or an adjacent tent structure that was used to store fuel, could not be safely occupied. We review de novo the circuit court's grant of summary disposition. *Latham v Barton Malow Co*, 480 Mich 105, 111; 746 NW2d 868 (2008).

The circuit court's October 4, 2012 order granted defendant's motion for summary disposition on plaintiff's complaint and defendant's counter-complaint and ordered that all occupancy of the Barnstormer was terminated and enjoined. The trial court's summary disposition ruling also affirmed the March 29, 2012 order of the Township Board, which found, pursuant to its authority under MCL 125.541(4), that the Barnstormer and adjacent tent structure "shall be closed immediately." Plaintiff does not raise any challenges asserting that the circuit

[3] The decision of a township board is appealable as of right to the circuit court. MCL 125.542 ("An owner aggrieved by a final decision or order of the legislative body . . . may appeal the decision or order to the circuit court by filing a petition for an order of superintending control within 20 days from the date of the decision."). In this case, plaintiff, the aggrieved owner, should have appealed the Township Board's decision to the circuit court pursuant to MCL 125.542, but that did not occur in this case. Instead, defendant brought the matter to the circuit court's attention in conjunction with its motion for summary disposition, and the circuit court did not consider the Township Board's decision as an appeal as of right. Thus, although this matter purports to be before this Court as an appeal as of right, any appeal of the circuit court's decision with regard to the Township Board's order is not an appeal as of right to this Court. See MCR 7.203(A)(1)(a). For the sake of judicial economy, we exercise our discretion and treat plaintiff's challenge to the relief ordered by the Township Board, which was ultimately "affirmed" by the circuit court, as on leave granted. See MCR 7.203(B)(5); *In re Morton*, 258 Mich App 507, 508 n 2; 671 NW2d 570 (2003).

court erred in granting summary disposition to defendant on the complaint and counter-complaint. Instead, plaintiff concludes, with little analysis, that summary disposition was inappropriate because, as part of the circuit court's summary disposition order, the court enjoined plaintiff from occupying any part of the Barnstormer, including the first floor and adjacent tent structure. Without citing any authority in support of its position, plaintiff contends that the circuit court erred by granting summary disposition in such a manner because there was no evidence before the hearing officer, the Township Board, or the circuit court demonstrating that the first floor or the tent structure were dangerous. Essentially, plaintiff appears to challenge the authority of the Township Board and the circuit court to enjoin the occupancy of the entire Barnstormer. To resolve this issue, we examine the statutory authority pursuant to which the Township Board acted.

In this case, plaintiff stipulated[4] that portions of the Barnstormer were in a condition that constituted a "dangerous building" under MCL 125.538, which provides that "[i]t is unlawful for any owner or agent thereof to keep or maintain any dwelling *or part thereof* which is a dangerous building as defined [by MCL 125.539]." (Emphasis added). As set forth in MCL 125.539, the entire building does not need to have safety violations in order for the building to be considered a "dangerous building." For instance, a building can be a "dangerous building" under the statute where "a part of the building or structure is manifestly unsafe for the purpose for which it is used." MCL 125.539(f). When a building is found to be a dangerous building, the owner is entitled to notice of the dangerous conditions and a hearing before a hearing officer. MCL 125.540. Regarding hearing officers, MCL 125.541(2) provides, in pertinent part, that

> [i]f the hearing officer determines that the building or structure should be demolished, otherwise made safe, or properly maintained, the hearing officer shall enter an order that specifies what action the owner . . . shall take and sets a date by which the owner . . . shall comply with the order.

Thus, MCL 125.541(2) gives a hearing officer discretion in the remedy to impose on the dangerous building, and nothing in the plain language of the statute requires that a hearing officer restrict her orders to only those parts of the building that are considered dangerous. The Township Board, in turn, is afforded the same wide breadth in determining the appropriate remedy. MCL 125.541(4) permits a "legislative body,"—in this case, the Township Board—to "either approve, disapprove, or modify the order" entered by the hearing officer. The legislative body then has authority to "take all necessary action to enforce the order." MCL 125.541(4).

[4] Although plaintiff claims it never stipulated that the first floor and tent structure of the Barnstormer were dangerous, the record does not support such an assertion. Rather, plaintiff's stipulation provided that "portions" of the Barnstormer "are in a condition that constitute a Dangerous Building," and did not specify the "portions" of the building to which the stipulation referred.

In light of the foregoing, we find plaintiff's challenge to be meritless. Nothing in the plain language of MCL 125.541 required either the hearing officer or the Township Board to take the type of piecemeal action suggested by plaintiff and impose remedies against only certain portions of the building. Rather, the plain language of MCL 125.541 authorized the hearing officer and the Township Board to take action affecting "the building," not portions thereof. Indeed, the statute provides that where a building, or any part thereof, was found to be dangerous, a hearing officer can order that "the building" be "demolished, otherwise made safe, or properly maintained," MCL 125.541(2), and the Township Board may then "approve, disapprove, or modify the order," and "shall take all necessary action to enforce the order, MCL 125.541(4). Thus, we reject plaintiff's argument.

Moreover, plaintiff's argument is factually flawed. Plaintiff contends there was no evidence that the first floor of the building was unsafe. Although Kedzierski testified that the 175-person occupancy limit was imposed because the first floor could be safe for up to 175 people, the record reveals that there were nevertheless several safety issues with regard to the first floor. For instance, the record reveals that defendant informed plaintiff of the following unsafe conditions on the first floor of the building: (1) the exits needed to be "[r]econfigure[d]" in two places; (2) a fire place and chimney needed to be removed; (3) all electrical, plumbing, and mechanical systems in the "pool table room" needed to be removed; (4) several areas that were enclosed needed to be opened; (5) the area entitled "North Pavilion" needed to be removed; and (6) a nearby outdoor "hut" had to be removed, along with all supporting electrical and plumbing. In addition, defendant required plaintiff to seal off the second floor of the building, and the record reveals that plaintiff failed to make any of the required repairs. Thus, guests on the first floor could potentially be exposed to risks on the second floor of the building. Additionally, although one of the inspectors believed that the temporary 175-person occupancy limit "work[ed]" for the first floor, he testified that he was "very cautious" about the first floor, and believed that allowing its use was reasonable, but only as long as the rest of the building was closed until proper repairs were completed. With regard to the outdoor tent structure, a letter from Kedzierski and Dingman to Cortis states that the tent structure had not been approved and that it posed a risk because it was "being used as a storage facility and ha[d] propane tanks/full fuel cans and [a] large combustible fuel load." In addition, the hearing officer expressly faulted the proposed architectural plans that plaintiff had submitted because, among other reasons, they failed "to show a resolution of the fire separation required between the building and the tent structure . . ." Thus, the record belies plaintiff's claim that the first floor and tent structure were safe and not in need of repairs.

Next, for the first time on appeal, plaintiff argues that it was denied due process because, although it was given notice and a hearing, the hearing in this case was not before an impartial decision-maker. Plaintiff argues that the hearing officer and Township Board, and in turn the circuit court, were not impartial because they entered an order requiring the entire Barnstormer to be closed, and in doing so failed to consider evidence that the first floor and tent structure were not dangerous. We need not consider this issue because it was not raised before the circuit court and because it was not raised in plaintiff's statement of questions presented on appeal. *Nuculovic v Hill*, 287 Mich App 58, 63; 783 NW2d 124 (2010); *Caldwell v Chapman*, 240 Mich App 124, 132; 610 NW2d 264 (2000). Nevertheless, the issue is without merit. As discussed above, the remedy of enjoining plaintiff's use of the entire Barnstormer was warranted. Plaintiff

cannot credibly maintain a claim that the hearing officer, Township Board, and circuit court were impartial for ordering a remedy that was available pursuant to statute.

III. DOCKET NO. 313483

A. FRIVOLOUS COMPLAINT

In Docket No. 313483, defendant appeals the circuit court's order denying attorney fees and argues that the circuit court clearly erred when it declined to award sanctions and attorney fees against plaintiff for filing a frivolous complaint. "A trial court's finding[ ] with regard to whether a claim or defense was frivolous . . . will not be disturbed unless it is clearly erroneous." *1300 LaFayette East Coop, Inc v Savoy*, 284 Mich App 522, 533; 773 NW2d 57 (2009).

"Michigan follows the 'American rule' with respect to the payment of attorney fees and costs." *Haliw v Sterling Hts*, 471 Mich 700, 706; 691 NW2d 753 (2005). "Under the American rule, attorney fees generally are not recoverable from the losing party as costs in the absence of an exception set forth in a statute or court rule expressly authorizing such an award." *Id.* at 707. See also MCL 600.2405(6).

In this case, defendant moved for sanctions and attorney fees pursuant to MCR 2.114 and MCL 600.2591. MCR 2.114(C)(1) provides that every document of a party who is represented by an attorney must be signed by the party's attorney of record. By signing the document, the attorney certifies that he or she has read the document and that:

> (2) to the best of his or her knowledge, information, and belief formed after reasonable inquiry, the document is well grounded in fact and is warranted by existing law or a good-faith argument for the extension, modification, or reversal of existing law; and
>
> (3) the document is not interposed for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation. [MCR 2.114(D)(2-3).]

If a document is signed in violation of the court rule, the trial court "on the motion of a party or on its own initiative, shall impose" on the attorney, the party, or both, an "appropriate sanction, which may include an order to pay to the other party or parties the amount of the reasonable expenses incurred because of the filing of the document, including reasonable attorney fees." MCR 2.114(E). The purpose of MCR 2.114(E) "is to deter parties and attorneys from filing documents or asserting claims and defenses that have not been sufficiently investigated and researched or that are intended to serve an improper purpose." *FMB-First Mich Bank v Bailey*, 232 Mich App 711, 722-723; 591 NW2d 676 (1998). In determining whether a document was signed in violation of MCR 2.114, a court is to consider the circumstances that existed at the time the document was signed. *Robert A Hansen Family Trust v FGH Inds, LLC*, 279 Mich App 468, 486; 760 NW2d 526 (2008).

In addition to sanctions imposed under MCR 2.114(E), where a party pleads a frivolous claim or defense, the party "is subject to costs as provided in MCR 2.625(A)(2). The court may not assess punitive damages." MCR 2.114(F). Pursuant to MCR 2.625(A)(2), if the trial court finds that a claim was frivolous, it shall award costs and fees incurred by the prevailing party[5] against whom the frivolous claim was made as provided in MCL 600.2591. A claim or defense is "frivolous" under MCL 600.2591(3)(a) if one of the following is met:

> (i) The party's primary purpose in initiating the action or asserting the defense was to harass, embarrass, or injure the prevailing party.
>
> (ii) The party had no reasonable basis to believe that the facts underlying that party's legal position were in fact true.
>
> (iii) The party's legal position was devoid of arguable legal merit.

"The determination whether a claim or defense is frivolous must be based on the circumstances at the time it was asserted." *Robert A Hansen Family Trust*, 279 Mich App at 486 (citation and quotation omitted).

Here, the trial court denied defendant's request for sanctions after it concluded, with no analysis, "I would not say, and I have never made a determination, that the action was frivolous." The trial court's subsequent written order gave no indication as to why the motion for sanctions was denied. Although this Court employs the deferential clearly erroneous standard to the trial court's determination of whether an action was frivolous, the trial court's failure to afford a clear understanding of the basis for its decision makes it impossible to ascertain whether the trial court clearly erred in denying defendant's motion for sanctions. Because the trial court failed to make any findings that would facilitate review, we vacate the trial court's order and remand with instructions for the trial court to consider and decide defendant's motion for sanctions, articulating on the record or in a written opinion the basis of its ruling. See *Regan v Carrigan*, 194 Mich App 35, 38-39; 486 NW2d 57 (1992).

B. WHETHER DEFENDANT IS ENTITLED TO ATTORNEY FEES BY STATUTE

In addition to arguing that it was entitled to attorney fees as a sanction for plaintiff's frivolous conduct, defendant argues that it was entitled to attorney fees pursuant to MCL 125.541. "We review a trial court's decision whether to award attorney fees for an abuse of discretion . . . ." *Loutts v Loutts*, 298 Mich App 21, 24; 826 NW2d 152 (2012). We review de novo defendant's claim that MCL 125.541 entitles it to recover attorney fees in this case.

[5] A "prevailing party" under the statute is "a party who wins on the entire record." MCL 600.2591(3)(b). Here, defendant was a prevailing party where plaintiff dismissed all of its claims with prejudice, save for its claim for declaratory relief, and where the trial court granted summary disposition to defendant on plaintiff's remaining claim for declaratory relief. See MCL 600.2591(3)(b); *Keinz v Keinz*, 290 Mich App 137, 131-142; 799 NW2d 576 (2010).

As noted above, "Michigan follows the 'American rule' with respect to the payment of attorney fees and costs." *Haliw*, 471 Mich at 706. "Under the American rule, attorney fees generally are not recoverable from the losing party as costs in the absence of an exception *set forth in a statute or court rule expressly authorizing such an award*." *Id.* at 707 (emphasis added).

MCL 125.541 provides, in pertinent part:

> (5) The cost of demolition includes, but is not limited to, fees paid to hearing officers, costs of title searches or commitments used to determine the parties in interest, recording fees for notices and liens filed with the county register of deeds, demolition and dumping charges, court reporter attendance fees, and costs of the collection of the charges authorized under this act. The cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure incurred by the city, village, or township to bring the property into conformance with this act shall be reimbursed to the city, village, or township by the owner or party in interest in whose name the property appears.
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> * * *
>
> (7) In addition to other remedies under this act, the city, village, or township may bring an action against the owner of the building or structure *for the full cost of the demolition, of making the building safe, or of maintaining the exterior of the building or structure or grounds adjoining the building or structure*. [Emphasis added.]

As noted above, MCL 125.541(7) permits a township to bring an action against the owner of a dangerous building "for the full cost of demolition, of making the building safe, or of maintaining the exterior of the building or structure . . . ." As an initial matter, defendant's argument fails because there is no evidence in the record that defendant demolished the building or took any other action to make the building safe. Defendant's counsel admitted at the hearing on the motion for attorney fees that defendant had not yet taken any action to demolish or repair the unsafe conditions at the Barnstormer. Defendant has not presented any evidence on appeal concerning whether it has taken any action to demolish the Barnstormer or to fix the unsafe conditions. In addition, defendant makes no effort to argue that its actions in this case amounted to "making the building safe" under the statute. We will not make that argument for defendant. *VanderWerp v Plainfield Charter Twp*, 278 Mich App 624, 633; 752 NW2d 479 (2008) ("We have held repeatedly that appellants may not merely announce their position and leave it to this Court to discover and rationalize the basis for their claims; nor may they give issues cursory treatment with little or no citation of supporting authority.").[6] Thus, even assuming MCL 125.541(7) authorized the recovery of attorney fees, the plain language of the statute does not permit defendant to recover attorney fees in this case.

[6] Further, we find that even if defendant made such an argument, it would be meritless.

As an alternative, defendant argues that it was entitled to attorney fees because of plaintiff's unlawful conduct. "A court may award costs and attorney fees only when specifically authorized by statute, court rule, or a recognized exception." *In re Waters Drain Drainage Dist*, 296 Mich App 214, 217; 818 NW2d 478 (2012). This Court has recognized an exception to the general rule regarding attorney fees "in limited situations where a party has incurred legal expenses as a result of another party's fraudulent or unlawful conduct." *Ypsilanti Charter Twp v Kircher*, 281 Mich App 251, 286; 761 NW2d 761 (2008) (citation and quotation marks omitted). Here, we find that the trial court did not abuse its discretion when it declined to award attorney fees based on plaintiff's unlawful conduct. Although plaintiff's conduct in the case at bar was less than admirable, we do not believe it was outside the range of reasonable and principled outcomes to conclude that plaintiff's conduct was not so egregious as to bring plaintiff within the "limited situations" that would authorize an award of attorney fees based on plaintiff's unlawful conduct. Cf. *id.*

Next, with little analysis, defendant appears to contend that it was entitled to attorney fees because it acted to abate the Barnstormer as a nuisance. The trial court may order a property owner to pay the costs for the abatement of a nuisance. See MCL 600.2940(3)-(4); *Ypsilanti Charter Twp*, 281 Mich App at 282. Here, the trial court found that the Barnstormer constituted a nuisance. However, defendant makes no argument that the payment of costs for the abatement of a nuisance should include attorney fees, and we decline to make that argument for defendant. *VanderWerp*, 278 Mich App at 633. Moreover, having reviewed the matter, we find no merit to defendant's assertion.

Lastly, we decline to address defendant's argument that its requested attorney fees were reasonable. Because the circuit court did not award attorney fees, much less determine that the amount requested by defendant was reasonable, this Court need not decide this issue. See *Tingley v Kortz*, 262 Mich App 583, 588; 688 NW2d 291 (2004).

In Docket No. 313020, we affirm. In Docket No. 313484, we affirm in part, vacate in part, and remand for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Stephen L. Borrello
/s/ Deborah A. Servitto
/s/ Jane M. Beckering